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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Policies and Rules Pertaining to)
Equal Access Obligations of)
Cellular Licensees)

RM-8012

To: The Commission

COMMENTS OF CENTEL CELLULAR COMPANY

Kevin C. Gallagher
Vice President - Legal/
External Affairs and
Assistant Secretary
CENTEL CELLULAR COMPANY
8725 Higgins Road
Chicago, IL 60631
(312) 399-2500

September 2, 1992

0 + 34
H. C. Gallagher
Vice President
Legal/External Affairs and
Assistant Secretary
CENTEL CELLULAR COMPANY
8725 Higgins Road
Chicago, IL 60631
(312) 399-2500

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COMMENTS OF CENTEL CELLULAR COMPANY

Centel Cellular Company ("Centel") hereby submits its comments on the above-captioned petition for rulemaking filed by MCI Telecommunications Corporation ("MCI").¹ MCI seeks initiation of a rulemaking proceeding to adopt uniform, nationwide policies and rules for the provision of equal access by cellular licensees. As detailed below, extending such obligations to cellular carriers would raise serious regulatory and public policy issues. Centel accordingly urges the Commission to consider carefully the potential ramifications of MCI's request.

I. SUMMARY

MCI's proposed regulations would, for the first time, extend equal access obligations to carriers that do not control an access bottleneck. Today, each cellular carrier faces intense competition from the other cellular licensee in the market. Licensees also compete with resellers of

¹ See Public Notice, DA 92-745 (June 10, 1992).

cellular service and Enhanced SMR systems. Prospectively, new personal communications services ("PCS") will bring even more competitors to the mobile communications marketplace. Simply stated, cellular carriers do not and will not possess monopoly control of an access bottleneck.

In the absence of a bottleneck, equal access would appear unjustified unless supported by compelling public interest benefits. Current cellular industry practices, however, have served consumers well. To Centel's knowledge, no cellular carrier charges its customers more than the standard interexchange carrier MTS rate. In addition, cellular customers may in some cases access alternative interexchange carriers ("IXCs") through 10XXX codes or operator assistance.

Many cellular carriers, including Centel, offer wide-area services that result in a lower overall charge than if the subscriber had to pay separately for IXC-provided long distance services. Some carriers also share with their subscribers the benefits of volume discounts obtained from IXCs. The imposition of equal access obligations could well foreclose these publicly beneficial service packages.

Equal access would also be difficult or impossible to implement in many common cellular calling situations, such as those requiring intersystem call hand-off. Even where equal access is technically feasible, the low demand for cellular

interexchange calling likely would not justify the considerable costs of conversion.² The imbalance between conversion costs and interstate service demand would be particularly pronounced for RSAs, which have relatively few subscribers and de minimis amounts of interstate long distance traffic.

If the Commission nevertheless concludes that a rulemaking regarding cellular equal access is warranted, such proposals should accommodate the realities of the cellular marketplace. Specifically, equal access requirements should apply only where technically and economically feasible. The Commission should address cost recovery issues. Finally, competitive parity requires that regulatory obligations imposed on cellular carriers also extend to competing private carriers, emerging PCS service providers, and cellular resellers.

II. MCI ASKS THE COMMISSION, FOR THE FIRST TIME, TO IMPOSE
EQUAL ACCESS OBLIGATIONS ON CARRIERS THAT DO NOT CONTROL
AN ACCESS BOTTLENECK

In its petition, MCI urges the Commission to impose equal access requirements on cellular licensees. Previously, the Commission has mandated such obligations only for entities that enjoy monopoly control of an access bottleneck,

² These costs include switch upgrades and replacements, deployment of new trunks, and balloting.

such as landline local exchange carriers. These requirements were viewed as necessary to promote fair competition in the interexchange marketplace.

By contrast, however, cellular licensees do not control an access bottleneck. As an initial matter, Centel can attest to the intense level of competition between the two licensees in each market with respect to the quality, scope, and price of service. As evidence of this competitive climate, the price of cellular service has decreased approximately 10-12 percent per year over the last five years, notwithstanding massive continuing investments in expanding and upgrading systems.³ Competition is also driving cellular carriers to implement more advanced technologies, such as digital transmission capabilities and Signalling System 7. In addition to direct competition from the other cellular licensee in the market, cellular carriers face substantial competition from resellers of cellular service.

Competition also comes from private carriers such as Fleet Call and the ESMR consortium, which provide service that is functionally indistinguishable from cellular -- and

³ Affidavit of Jerry A. Hausman at ¶24, Attachment 3 to Reply of the Bell Operating Companies in Support of Their Motion for Removal of Mobile and Other Wireless Services from the Scope of the Interexchange Restriction and Equal Access Requirement of Section II of the Decree, U.S. v. Western Electric Co., Civil Action No. 82-0192.

not subject to any equal access obligations. Using digital technology, these entities are developing wide-area mobile telephone networks that provide unrestricted, interconnected telephone service. ESMR providers also are building capabilities for roaming to develop a seamless nationwide network.⁴ With the recent elimination of SMR end-user licensing,⁵ there is no longer any basis for distinguishing between cellular and ESMR providers as means of serving mobile communications customers.

Finally, the Commission's recent PCS initiative⁶ likely will result in the licensing of additional wireless networks, which will offer further means of connection to the interexchange infrastructure. The family of proposed PCS services includes regional and nationwide wireless two-way voice and data networks ("PCN"). In addition, spectrum has

⁴ See Fleet Call, Inc. Petition for Rulemaking re Policies and Rules for Licensing Fallow 800 MHz Specialized Mobile Radio Spectrum Through a Competitive Bidding Process, RM-7985, at 10 (filed April 22, 1992). See also "Digital Technology to Help SMR Compete with Cellular," Industrial Communications, March 20, 1992, at 2.

⁵ Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems, Report and Order, FCC 92-359 (released August 31, 1992).

⁶ Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rulemaking, FCC 92-333 (released August 14, 1992).

been allocated for a nationwide mobile satellite service.⁷ All of these services will provide significant competition to cellular service, and none, apparently, will operate under an equal access obligation.

Accordingly, the Commission should carefully consider whether cellular equal access would truly serve the public interest. Because cellular carriers do not control an access bottleneck, the traditional rationale for equal access is not present. Therefore, the Commission should inquire whether there are other compelling justifications for imposing such requirements.

III. CURRENT CELLULAR INDUSTRY PRACTICES BENEFIT CONSUMERS

MCI argues that equal access should be required because cellular customers currently are deprived of the ability to purchase cellular and long-distance service on an unbundled basis.⁸ As discussed below, however, the need for cellular equal access is not readily apparent in light of the consumer benefits of existing cellular industry practices. In fact,

⁷ Amendment of Parts 2, 22 and 25 of the Commission's Rules to Allocate Spectrum for and to Establish Other Rules and Policies Pertaining to the Use of Radio Frequencies in a Land Mobile Satellite Service for the Provision of Various Common Carrier Services, 4 FCC Rcd 6041 (1989); remanded Aeronautical Radio, Inc. v. FCC, 928 F.2d 428 (D.C. Cir. 1991), on remand Tentative Decision, 6 FCC Rcd 4900, Final Decision, 7 FCC Rcd 266 (1992).

⁸ Petition at 5.

in many cases consumers pay less, and in no cases pay more, than the standard MTS rates.

As an initial matter, it is worth emphasizing that, unlike payphone owners or alternative operator service providers, cellular carriers do not impose surcharges on their customers for the valuable capability of making interstate calls. Centel is unaware of any cellular carrier that charges more than the standard IXC retail rates for MTS services. Nor do cellular carriers block subscribers from accessing alternative IXCs. They are free to do so by dialing 10XXX or using a calling card.

Cellular carriers frequently offer wide-area cellular service at a price that is lower than if the customer had to pay a separate IXC charge. Because of the efficiencies of clustered or consolidated systems, many "long distance" calls can be billed solely based on the cellular carrier's airtime rates, without additional charges from an interexchange carrier. Centel is currently offering such wide area service on a regional basis in several of its serving areas. Requiring carriers to pass such calls on to an IXC likely would foreclose these publicly beneficial packages and increase the total costs to subscribers.

In addition, some cellular carriers purchase long distance toll service at bulk rates and resell this service to their customers at rates that are significantly lower than

retail. An obligation to pass calls along to each customer's preferred IXC could eliminate both the opportunity for such bulk purchasing and the related discounts to customers. Consequently, equal access might transfer revenues from cellular carriers to IXCs, but would not reduce rates.

IV. EXTENDING EQUAL ACCESS OBLIGATIONS TO CELLULAR CARRIERS
WOULD IMPOSE DISPROPORTIONATE BURDENS AND COSTS

A. Cellular Equal Access Is Difficult or Impossible to
Implement in Certain Situations

MCI does not describe the specific situations in which it believes equal access obligations should apply. In the unique circumstances of the cellular industry, interstate calls could arise in four distinct scenarios:

Situation A: A cellular subscriber who is on a call in his or her home system crosses the state boundary, transforming the call into a nominally interstate communication ("call hand-off").

Situation B: A cellular subscriber who is roaming in a foreign system makes an interstate call.

Situation C: A cellular subscriber who is roaming in a foreign system receives an interstate call ("call delivery").

Situation D: A cellular subscriber dials an interstate call in his home system.

Due to technical limitations, equal access may be impossible or costly to implement in some of these situations.

In Situation A, cellular equal access is impossible under current and foreseeable technology. Intersystem

communications to enable IXC routing take too long to permit hand-off. Currently, it takes approximately 12-13 seconds to direct a call from the customer's home market switch to his or her preferred IXC and then out to a neighboring MTSO for hand-off. By that time, the customer is likely to be well out of range of the home system, and the call is likely to be dropped. Until more rapid means of intersystem communications are developed, equal access in the hand-off scenario will remain impossible.⁹

In Situation B, equal access is technically feasible if the foreign system receives a subscriber profile containing information regarding the subscriber's preferred IXC or the subscriber communicates his or her preference directly to the foreign system. Automatic receipt of the profile can be achieved only if the IS-41 signalling protocol is in place.¹⁰ Alternatively, the subscriber could access his or her

⁹ The United States District Court for the District of Columbia has already recognized this technical impossibility in granting the Bell Operating Companies a temporary waiver of equal access requirements imposed by the Modified Final Judgment ("MFJ") in the hand-off context. United States v. Western Electric Co., 1990-2 Trade Cas. (CCH) ¶ 69,177 at 64,452 (D.D.C. 1990). The Bell Operating Companies currently have pending before the Court a request for permanent waiver in the intersystem hand-off context. They also have filed with the Justice Department a request to remove all wireless services from the scope of the interexchange restriction and equal access requirements of Section II of the MFJ decree.

¹⁰ IS-41 permits the cellular switches of different manufacturers used in different markets to communicate with one another to permit the exchange of information.

preferred IXC by dialing 10XXX or by using an IXC calling card.

In Situations C and D, equal access is feasible under current technology, although many in-place switches currently lack equal access capabilities. In both of these scenarios, calls passing through the home market switch can be routed to the customer's preferred IXC if the switch can provide equal access. Nevertheless, as discussed below, implementing these capabilities in existing systems could involve considerable conversion costs, particularly in RSAs.

B. The Costs of Conversion to Equal Access Appear Unreasonable Given the Limited Demand for Cellular Interstate Calling

Even where equal access is technically feasible, the costs of converting existing cellular facilities would be considerable. At a minimum, software upgrades would be necessary to handle routing of calls to primary IXCs and communications with foreign systems. In many cases, switches would need to be replaced because upgrades are unavailable. In some situations, deployment of extra trunks between tandem and IXCs would also be necessary. Finally, balloting costs could be significant as well.

In contrast to these sizable costs, demand for and revenues from interstate cellular calling are relatively small. Currently, interstate calling makes up only 7.86

percent of the total minutes of airtime in Centel's MSA systems. Of this portion, 3.53 percent is used by customers in their home market and 4.33 percent by roamers. The statistics in Centel's RSA markets are similar, with interstate calling comprising only 8.72 percent of total minutes (1.54 percent by home market customers and 7.19 percent by roamers).

The percentage of interstate calling revenues to total cellular system revenues is even smaller. In Centel's MSA markets, the total interstate revenues to total system revenues is approximately 2.10 percent. Of this portion, 0.96 percent is derived from customers of the home market and 1.14 percent from roamers. In Centel's RSAs, the proportions are similar. Interstate revenues make up 1.71 percent of total system revenues, with 0.31 percent derived from home market customers and 1.40 percent from roamers.

The disproportionate nature of equal access conversion costs is further confirmed by the minimal percentage of all interstate traffic that originates or terminates on cellular systems. It has been estimated that cellular interstate traffic accounts for only 0.5 percent of all interstate traffic.¹¹ This minor amount of cellular interstate calling

¹¹ Affidavit of Charles L. Jackson and Richard P. Rozek, Table 4, Attachment B to Motion of BellSouth Corporation for a Waiver of Section II(D) of the Modification of Final Judgment to Allow BellSouth Corporation to Provide Integrated MultiLATA Cellular Service (May 9, 1991).

would not appear to justify the cost of converting to equal access capability.

C. Requiring Cellular Carriers to Implement Equal Access Might Delay Investments in New Cellular Technologies

In addition to the direct costs of converting to equal access, there are indirect costs represented by delayed investments in new, more efficient technology. Currently, many cellular carriers are considering or in the process of implementing system improvements such as digital transmission capabilities and Signalling System 7 ("SS7"). These technologies will enhance service to the public by expanding system capacity, increasing security and privacy, shortening call set-up, and facilitating new service options.

Adoption of MCI's proposal could delay deployment of these technologies. If a cellular carrier is required to direct its finite resources toward equal access conversion, system improvements to enhance quality and coverage may necessarily have to be postponed. Such a result would be directly contrary to the public interest.

V. IF THE COMMISSION CONCLUDES THAT A CELLULAR EQUAL ACCESS RULEMAKING IS WARRANTED, ITS PROPOSALS MUST ACCOMMODATE THE REALITIES OF THE CELLULAR MARKETPLACE

As detailed above, extending equal access obligations to cellular carriers would raise serious economic, technical,

and public policy issues. However, if the Commission concludes that the requested rulemaking is appropriate, any proposed equal access requirements must be consistent with the technical limitations, financial constraints, and competitive realities of the cellular marketplace.

Specifically, equal access should be required only where a subscriber initiates a long distance call in his or her home system or where a roamer initiates a call in a system using IS-41 technology. Further, because of current technological limitations, equal access cannot and should not apply in the call hand-off context.

In addition, the Commission should consider limiting equal access obligations to certain MSA licensees only. The costs of converting RSAs, and even many smaller MSAs, to equal access would be prohibitive. At a minimum, if the Commission determines not to exempt such markets from equal access requirements, it should afford cellular carriers great flexibility in implementing equal access and should adopt a liberal waiver policy.

The Commission should also examine the cost recovery issues associated with implementation of equal access capabilities. These issues include:

- How will cellular carriers recover the costs of conversion?
- How will cellular carriers recover the costs of balloting, if required?

- How will cellular carriers be compensated for terminating calls delivered over an IXC's network?

These questions must be resolved before equal access obligations are imposed on cellular carriers.

Finally, the Commission must ensure that cellular carriers and competing wireless service providers face consistent obligations. Cellular licensees, cellular resellers, ESMR providers and PCS providers will all be competing to serve the same customers. To permit full and fair competition, each of these entities should be subject to the same equal access requirements.

VI. CONCLUSION

For the foregoing reasons, Centel urges the Commission to assess carefully the serious regulatory and public policy issues raised by MCI's proposal. If the Commission concludes that a rulemaking regarding cellular equal access is

warranted, its proposals should accommodate the realities of the cellular marketplace.

Respectfully submitted,

CENTEL CELLULAR COMPANY

By: Kevin C. Gallagher (nr)
Kevin C. Gallagher
Vice President - Legal/
External Affairs and
Assistant Secretary
CENTEL CELLULAR COMPANY
8725 Higgins Road
Chicago, IL 60631
(312) 399-2500

September 2, 1992

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of
September, 1992, I caused copies of the foregoing "Comments"
to be mailed via first-class postage prepaid mail to the
following:

* Michael Mandigo
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 518
Washington, DC 20554

* Downtown Copy Center
1114 21st Street, N.W.
Suite 140
Washington, DC 20037

Larry Blosser
Donald J. Elardo
1801 Pennsylvania Ave., N.W.
Washington, DC 20006
Attorneys for MCI


Barbara Litvak

* Hand-Delivered